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PAGE 01 STATE 237726

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TO AMEMBASSY LIMA IMMEDIATE

C O N F I D E N T I A L STATE 237726

E.O. 11652:GDS

TAGS: SHUM, MASS, PE

SUBJECT: CONGRESSIONAL REQUEST FOR HUMAN RIGHTS STATEMENT

TEXT FOLLOWS OF DRAFT STATEMENT ON HUMAN RIGHTS PERU,
CITED SEPTTEL SAME SUBJECT.

1. POLITICAL SITUATION -- PERU HAS BEEN RULED BY A MILITARY GOVERNMENT SINCE THE COUP OF OCT. 3, 1968, WHICH OVERTHREW THE ELECTED PRESIDENT FERNANDO BELAUNDE TERRY. ON AUGUST 28, 1975, A SECOND COUP OUSTED GENERAL JUAN VELASCO, THE ARCHITECT OF PERU'S "REVOLUTION", REPLACING HIM WITH THEN PRIME MINISTER (GENERAL) FRANCISCO MORALES BERMUDEZ. THE CHARACTER OF THE GOVERNMENT HAS REMAINED LARGELY THE SAME: A STATIST APPROACH TO SOCIALISM UNDER AUTHORITARIAN MILITARY-TECHNOCRAT RULE. THE MILITARY APPARENTLY HAS NO INTENTION OF RELINQUISHING ITS RULE TO A CIVILIAN REGIME FOR THE FORESEEABLE FUTURE, AND THE GOVERNMENT'S DISCUSSION OF POPULAR PARTICIPATION IN THE POLITICAL PROCESS AT LOWER ADMINISTRATIVE LEVELS HAS BEEN UNSPECIFIC.

2. LEGAL SITUATION -- THE BASIC PERUVIAN LAW IS THE CONSTITUTION OF 1933, AS AMENDED, WHICH CONTAINS GUARANTEES OF
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PAGE 02 STATE 237726

UNIVERSALLY RECOGNIZED HUMAN RIGHTS. HOWEVER, THE MILITARY

GOVERNMENT, CITING ITS BROAD POWERS UNDER THE REVOLUTIONARY STATUTE OF 1968, HAS SUSPENDED SEVERAL ELEMENTS OF THE CONSTITUTION WHICH WERE DEEMED NOT IN ACCORD WITH ITS OBJECTIVES AND METHODS. LAWS ARE ENACTED BY DECREE. THE CONSTITUTION PERMITS THE SUSPENSION OF ITS LEGAL PROTECTIONS WHEN THE SECURITY OF THE STATE REQUIRES, AND A STATE OF EMERGENCY IS PRESENTLY IN EFFECT, FOLLOWING DEMONSTRATIONS AGAINST THE GOVERNMENT IN EARLY JULY 1976, ATTENDANT UPON THE INSTITUTION OF A NECESSARY ECONOMIC-AUSTERITY REGIME.

PERUVIAN COURTS ARE NOT INDEPENDENT OF THE EXECUTIVE. THE MILITARY GOVERNMENT HAS OVERRULED COURTS ON MATTERS PERTAINING TO GOVERNMENT POLICY. THE COURTS HAVE NO JURISDICTION AT ALL IN SECURITY CASES.

3. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS--
(A) INTEGRITY OF THE PERSON -- ARTICLE 3: THE RIGHT TO LIFE, LIBERTY AND SECURITY OF PERSON IS GENERALLY RESPECTED. THE MILITARY GOVERNMENT DOES NOT EXECUTE POLITICAL PRISONERS, NOR DOES IT GENERALLY CONDONE FLAGRANT DENIALS OF PERSONAL SECURITY. WITH A VERY FEW EXCEPTIONS, THE GOVERNMENT DOES NOT ARBITRARILY DENY PERUVIANS RIGHT TO LIBERTY.

ARTICLE 5: THE PERUVIAN GOVERNMENT INSISTS IT DOES NOT CONDONE TORTURE AND OTHER INHUMAN AND DEGRADING TREATMENT. HOWEVER, LAW ENFORCEMENT AND JAIL ADMINISTRATION TECHNIQUES ARE SUCH THAT THERE HAVE BEEN REPORTS OF POLICE BRUTALITY.

ARTICLE 8: PERUVIAN CITIZENS CANNOT OBTAIN A REMEDY FOR ACTS VIOLATING THEIR FUNDAMENTAL RIGHTS GRANTED BY THE CONSTITUTION SINCE SOME OF THOSE RIGHTS HAVE BEEN SUSPENDED AND THE COURTS ARE UNABLE TO REVIEW GOVERNMENT ACTIONS.

ARTICLE 9: PERSONS SUSPECTED OF HOSTILE POLITICAL OR SECURITY ACTIVITIES ARE OCCASIONALLY SUBJECTED TO ARBITRARY ARREST, DETENTION WITHOUT CHARGES, OR EXILE. AN ESTIMATED 150 PERUVIANS, PRIMARILY POLITICIANS ASSOCIATED WITH THE CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 237726

PREVIOUS REGIME, JOURNALISTS AND UNION ACTIVISTS, HAVE BEEN SO AFFECTED SINCE 1968. A NUMBER OF PROMINENT POLITICAL OPPONENTS OF THE PRESENT GOVERNMENT WHO WERE IN EXILE WERE RECENTLY GRANTED AMNESTIES.

ARTICLE 10: SOME PERSONS ARRESTED FOR SUSPECTED POLITICAL AND SECURITY VIOLATIONS HAVE NOT HAD AN OPEN COURT HEARING TO DETERMINE RIGHTS AND CHARGES.

ARTICLE 11: THE RIGHT TO A FAIR TRIAL IS GENERALLY OBSERVED IN PERU. IN A SMALL NUMBER OF CASES POLITICAL OR SECURITY FACTORS ARE GIVEN PRIORITY AND TRIAL IS BY SPECIAL COURT MARTIAL.

(B) OTHER FREEDOMS -- THE PERUVIAN GOVERNMENT DOES NOT CONDONE RACIAL DISCRIMINATION OF ANY KIND, AND THAT WHICH IS IN EVIDENCE RESULTS FROM TRADITIONAL ATTITUDES OF THE SOCIETY.

PERUVIANS ARE FREE TO TRAVEL WITHIN THE COUNTRY AND TO GO ABROAD WITHOUT ANY SIGNIFICANT LIMITATIONS.

IN THE PROCESS OF TRANSFORMING PERU INTO A SOCIALIST STATE, THE MILITARY GOVERNMENT HAS EXPROPRIATED PROPERTY BELONGING TO BOTH PERUVIANS AND FOREIGNERS. COMPENSATION, WHEN PAID, HAS BEEN INADEQUATE OR IN THE FORM OF NON-REDEEMABLE GOVERNMENT BONDS. PERSONAL PROPERTY, AS DIFFERENTIATED FROM INCOME-PRODUCING PROPERTY, HAS NOT BEEN EXPROPRIATED.

FREEDOM OF EXPRESSION IS LIMITED IN PERU. NATIONAL-CIRCULATION NEWSPAPERS WERE EXPROPRIATED IN 1974 AND ARE TO BE REASSIGNED TO VARIOUS SECTORS OF SOCIETY (PEASANTS, LABOR AND INTELLECTUALS) UNDER DIRECT AND INDIRECT GOVERNMENTAL CONTROLS. RADIO AND TELEVISION ARE ALSO LARGELY GOVERNMENT CONTROLLED. HOWEVER, THE GOVERNMENT HAS PERMITTED SOME PRIVATELY-OWNED WEEKLY JOURNALS TO CONTINUE PUBLISHING.

ALTHOUGH POLITICAL PARTIES CONTINUE TO EXIST IN PERU, THEY ARE PERMITTED NO DIRECT ROLE IN SHAPING GOVERNMENT POLICIES AND THEY DO NOT ENJOY THE RIGHT OF PUBLIC ASSEMBLY.

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CONFIDENTIAL

PAGE 04 STATE 237726

4. OTHER HUMAN RIGHTS REPORTING -- AMNESTY INTERNATIONAL'S 1974 "REPORT ON TORTURE" STATED THAT "POLICE BRUTALITY DURING INTERROGATION OF COMMON AND POLITICAL PRISONERS HAS ALLEGEDLY BEEN COMMON PRACTICE IN PERU FOR MANY YEARS". THE REPORT ALSO ASSERTED THAT WHILE "VERY FEW ALLEGATIONS" HAD BEEN RECEIVED, IT APPEARED THAT SOME TORTURE TECHNIQUES ARE COMMON PRACTICE DURING INTERROGATION OF ALL KINDS OF PRISONERS, ALTHOUGH "THERE IS NO REASON TO BELIEVE THAT TORTURE IS CARRIED OUT AFTER THE INTERROGATION STAGE".

AMNESTY INTERNATIONAL'S 1974-75 "ANNUAL REPORT" ALSO DISCUSSED ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS IN PERU. THE REPORT NOTED THAT "IN SEPTEMBER 1974, FOLLOWING A SERIES OF DENUNCIATIONS OF TORTURE IN THE DOMESTIC PERUVIAN PRESS, PRESIDENT VELASCO PUBLICLY CONDEMNED THE PRACTICE OF

TORTURE, ANNOUNCED AN INVESTIGATION INTO ITS PRACTICE, AND ASKED FOR THE RESIGNATION OF THE HEAD OF THE PERUVIAN INVESTIGATIVE POLICE". IN MARCH 1975, AMNESTY INTERNATIONAL EXPRESSED ITS APPRECIATION FOR THESE MEASURES TAKEN. IN APRIL, AMNESTY INTERNATIONAL REQUESTED PERUVIAN AUTHORITIES TO INVESTIGATE CLAIMS OF TORTURE MADE BY PEASANTS DETAINED BETWEEN 1972 AND 1974 FOR ALLEGED GUERRILLA ACTIVITIES.

FREEDOM HOUSE CONSIDERED PERU "PARTLY FREE".

(NUMBERED ARTICLES CITED ABOVE ARE AMONG THE 30 WHICH COM-
PRISE THE UNIVERSAL DECLARATION OF HUMAN RIGHTS. AMNESTY
INTERNATIONAL 1975-76 ANNUAL REPORT NOT YET AVAILABLE.)

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